

**May 30, 2007**

B-19J

Philis J. Posey, Acting Secretary  
Federal Energy Regulatory Commission  
888 First St., N.E., Room 1A  
Washington, DC 20426

Re: Draft Environmental Impact Statement for Guardian Expansion and Extension Project (G-II), Jefferson, Dodge, Fond du Lac, Calumet, Brown, Outagamie and Walworth Counties, Wisconsin and De Kalb County, Illinois. (CEQ No. 20070150) (FERC Docket No. CP07-8-000)

Dear Ms. Posey;

In accordance with Section 309 of the Clean Air Act and the National Environmental Policy Act (NEPA), the U.S. Environmental Protection Agency, Region 5 (U.S. EPA) has reviewed the Federal Energy Regulatory Commission's (FERC) above referenced Draft Environmental Impact Statement (DEIS) for the proposed Guardian Pipeline Project (G-II) dated April 2007.

Guardian Pipeline L.L.C. (Guardian) proposes to expand its existing system to provide approximately 537.2 million cubic feet per day (MMcfd) of natural gas transportation to both eastern Wisconsin and northeastern Illinois. The proposed project would add additional compression along Guardian's existing pipeline system in Illinois and Wisconsin, and add approximately 110 miles of new pipeline and associated facilities from its current terminus in Ixonia, Jefferson County, Wisconsin northward to a new terminus west of Green Bay in the Town of Oneida, Outagamie County, Wisconsin. A portion of the proposed new pipeline would go through the Oneida Reservation in Wisconsin. The proposed Sycamore compressor station would be located in DeKalb County, Illinois.

Based on our review, we rate the DEIS as EC-2 (environmental concerns, request additional information). We have natural resources concerns regarding impacts to surface and ground water quantity and quality, wetlands and upland forest. The DEIS lacks proposed wetland compensation mitigation plans and does not identify any compensation for the loss of 41 acres of upland forest and its associated habitat. In addition, it appears that FERC has not formally consulted with the Oneida Tribe, in the spirit of the Executive Order 13175, Section 2, Fundamental Principles, and the United States Government Indian Policy. We recommend additional information be developed and included in the Final EIS (FEIS) for this proposal. Documentation of FERC's direct consultation with the Tribe and the results of that consultation should be included in the FEIS. Our detailed comments are enclosed with this letter. A copy of our EIS summary rating sheet is also enclosed.

We look forward to reviewing FERC's FEIS for Guardian's G-II proposal. If you would like to discuss the content of this letter and enclosure in more detail, please contact Virginia Laszewski of my staff at 312/886-7501 or email her at [laszewski.virginia@epa.gov](mailto:laszewski.virginia@epa.gov).

Sincerely,

/s/

Kenneth A. Westlake, Chief  
NEPA Implementation Section  
Office of Science Ecosystems and Communities

Enclosure: 2

**U.S. EPA Comments On FERC's Draft Environmental Impact Statement (DEIS)  
Guardian Expansion and Extension Project (G-II)  
(CEQ No. 20070150) (FERC Docket No. CP07-8-000)**

**Ground Water – Proposed Compressor Station Wells**

The DEIS briefly mentions that ground water wells will be installed at two proposed compressor stations and the well water may be used for hydrostatic tests. We recommend that the Final EIS (FEIS) disclose the amount of ground water that would be withdrawn from these wells during construction, testing and/or operation of the pipeline and compressor station facilities. The FEIS should disclose any potential impacts. For example, would the amount of ground water withdrawn from an aquifer substantially impact the amount of ground water available for municipal drinking water supplies and/or crop irrigation? If applicable, the FEIS should include the proposed mitigation measures that Guardian would undertake to offset any potential adverse impacts identified.

**Water Quality – Hydrostatic Test Waters**

To rule out the possibility that corrosion preventatives or other types of pipe or equipment coatings applied by the manufacturer could become mobilized during hydrostatic testing, and thereby constitute a discharge “pollutant” to waters of the U.S. under Clean Water Act Section 402, EPA recommends a review of internal corrosion preventatives and other coating substances for pipeline materials that will be used for this project. Substances that could be mobilized should be disclosed in permit applications. Consequently, we recommend the FEIS include the results of the review and disclose any potential impacts to water quality. If applicable, the FEIS should identify the mitigation measures that will be undertaken to protect water quality.

**U.S. EPA, Region 5 Contacts for Clean Water Act Permits – Oneida Reservation**

The following permits from U.S. EPA, Region 5 will be needed for any portion of Guardian's proposal or connected actions that would occur within the exterior boundaries of the Oneida Reservation:

- Clean Water Act (CWA) Section 402 National Pollutant Discharge Elimination System (NPDES) 402 discharge permit for discharges to waters of the U.S. from ground water pump out or process water associated with pipeline hydrostatic pressure testing. For permit information contact John Colletti, phone: 312/886-6106, email: [colletti.john@epa.gov](mailto:colletti.john@epa.gov).
- CWA Section 401 water quality certification for U.S. Army Corps of Engineers (ACOE) CWA Section 404 wetland permits, water body crossings or discharge into waters of the U.S. For 401 certification information contact Janice Cheng, phone: 312/353-6424, email: [cheng.janice@epa.gov](mailto:cheng.janice@epa.gov).

We recommend FERC include the U.S. EPA 402 permit and 401 certification contact information in the FEIS. In addition, we request FERC amend DEIS Table 1.3-1 to clarify that U.S. EPA CWA 402 discharge permits and 401 water quality certifications only cover the area

within the exterior boundaries of Indian Reservations.

### **Waterbody Crossings - Streams/Rivers**

The proposed pipeline would cross 111 surface waterbodies. Of these, 7 stream/river segments are included on the list of impaired waterbodies under Section 303(d) of the Clean Water Act. Guardian proposes to cross 2 impaired water bodies, the Fox and Rock Rivers, using the horizontal directional drill (HDD) method. Except for Duck Creek, Guardian proposes to cross all other water bodies, including the other 4 impaired waterbodies (i.e., Kummel Creek, Kankapot Creek, Plum Creek and Trout Creek) using the open cut method.

The Duck Creek segment is located within the exterior boundaries of the Oneida Reservation and the crossing method has yet to be determined. The FEIS should identify the Oneida Tribe's preferred method for crossing Duck Creek and disclose the method Guardian proposes to use to cross Duck Creek.

The DEIS identifies that Guardian proposes to use the erosion and control practices for waterbody crossings and the crossings would be undertaken during low flow conditions. U.S. EPA does not object to the use of the open cut method for this project. However, we recommend Guardian use in-stream sediment control structures (e.g., silt curtains) during construction to reduce downstream sediment flow. The FEIS should identify whether or not Guardian will use in-stream sediment control structures during construction.

### **The Fox River Crossing – A National Priority List (NPL) Site and Agency Contact Information**

The proposed pipeline would cross the Fox River. The Fox River in the project area is a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) National Priority List site (i.e., Superfund site). Based on the information in the DEIS the proposed current location for the Fox River crossing is not within an active remediation work area. Guardian proposes to use the HDD method for crossing the Fox River, if future geotechnical data indicates this method would be feasible. We recommend the FEIS identify the results of the geotechnical tests and verify the Fox River location and crossing method that will be used.

We agree with FERC staff's recommendation that in the event the planned HDD crossing of the Fox and/or Rock River fails, Guardian will need to develop an alternative crossing plan with the ACOE, U.S. EPA and Wisconsin Department of Natural Resources (WisDNR). However, whether or not the current crossing location or method changes, prior to any Fox River crossing work, Guardian should contact and coordinate with Mr. Greg Hill, Project Coordinator, WisDNR (Water Division) at (608) 267-9352. In addition, Guardian should contact the U.S. EPA, Region 5 Remedial Project Manager, Mr. James Hahnenberg. Mr. Hahnenberg may be reached by calling (312) 353-4213 or by email at [hahnenberg.james@epa.gov](mailto:hahnenberg.james@epa.gov). We recommend this agency contact stipulation and contact information be included in the FEIS.

**Wetland Impacts, 404 Permitting and Compensatory Mitigation Plan**

The DEIS identifies that approximately 124 wetlands will be crossed by the pipeline and 60.3 acres of wetlands will be directly impacted. The majority of these wetlands appear to be emergent wetlands. While the DEIS includes information concerning the project area wetlands (by location, size, and type) and waters of the U.S. that may be impacted either directly or indirectly by the proposed project, it does not provide wetland functions and values assessments.

U.S. EPA concurs with the other resource agencies that additional information on high quality emergent wetlands (e.g., sedge meadow) should be provided for this project. We request wetlands functions and values assessments to determine which wetlands may have floristic and habitat integrity of high quality emergent wetlands. High quality wetlands may need additional protection during project construction and operation than is currently being proposed in the DEIS. The DEIS identifies that Guardian plans to apply for the ACOE CWA Section 404 permit in the spring of 2007. Consequently, we recommend the FEIS include functions and values assessments of the wetlands and identify those emergent wetlands of higher value. This information would help to expedite Section 404 permitting for the G-II project.

The DEIS identifies that approximately 10 acres of forested wetlands will be directly impacted due, in part, to the cutting and removal of wetland trees. Since it takes many decades to grow mature trees and restore the functions and values of forested wetlands, we consider the loss of trees from forested wetlands to be a permanent loss and expect compensation for this loss during Section 404 permitting. Consequently, we recommend the FEIS include a proposed wetland compensation plan for any unavoidable wetland impacts, to include temporal loss of wetland functions and values for those wetlands that may eventually revert to near pre-construction condition. The inclusion of a proposed wetland compensation mitigation plan in the FEIS would help to expedite the Section 404 permitting process for the G-II project.

**Upland Forest/Wildlife Habitat Loss and Compensation**

The DEIS identifies that 41 acres of upland forest will be destroyed due to construction of the proposed project. Since it takes many decades for trees to mature and a forest to become established, the loss of any forest associated with this project should be considered a permanent loss. In addition, based on the information in the DEIS, EPA suspects that significant loss of upland forest and its associated wildlife habitat has already occurred in the project area due to development and agricultural activities. The DEIS identifies that Guardian does not propose to provide compensatory mitigation for the permanent loss of upland forest due to their G-II proposal.

In the spirit of NEPA, in order to mitigate for the contribution of the proposed project's adverse impacts to upland forest, we recommend that Guardian commit to voluntary upland forest mitigation and that the FEIS include Guardian's proposed voluntary upland forest compensatory mitigation plan. This plan might include, but need not be limited to, commitments to planting native tree saplings at Guardian's compressor station locations and within upland buffers associated with the yet-to-be-identified wetland compensation mitigation areas for this proposal.

**Executive Order 13175**

Based on the information in the DEIS, it appears FERC did not directly consult with the Oneida Tribe. Executive Order 13175 Section 2 describes fundamental principles of inherent sovereign powers of tribes over their territory, and the principle of government-to-government relationships with the United States Government where tribal resources and rights are affected. These principles have been the cornerstones of the United States Government's Indian Policy since the Nixon Administration, and have been re-affirmed by the current Administration in a memorandum from President Bush on September 23, 2004. We recommend that documentation of FERC's direct government-to-government consultation with the Tribe and the results of that consultation be included in the FEIS.